

**SUBCHAPTER F : PUBLIC NOTICE OF RADIOACTIVE  
MATERIAL LICENSE APPLICATIONS**

§§39.301, 39.303, 39.305, 39.307, 39.309, 39.311

Effective June 5, 1997

**§39.301. Notice of Declaration of Administrative Completeness.**

When an application under Chapter 336 of this title (relating to Radioactive Substance Rules) has been declared administratively complete, the chief clerk shall mail notice in accordance with the requirements of this subchapter.

Adopted May 14, 1997

Effective June 5, 1997

**§39.303. Notice of License Applications Upon Completion of Technical Review.**

(a) When the executive director has completed the technical review of an application for a license, major amendment, or renewal of a license issued under Chapter 336 of this title (relating to Radioactive Substance Rules) or for minor amendments issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), notice shall be mailed and published in accordance with the requirements of this subchapter. The deadline to file public comment, protests, or hearing requests is 30 days after publication.

(b) For an application for minor amendment to a license issued under Chapter 336, Subchapter F of this title (relating to Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), notice shall be mailed in accordance with the requirements of this subchapter. The deadline to file public comment, protests, or hearing requests is ten days after mailing.

Adopted May 14, 1997

Effective June 5, 1997

**§39.305. Mailed Notice for Radioactive Material Licenses.**

When notice by mail is required under this subchapter, the chief clerk shall mail notice to:

(1) the mayor and health authorities of the city in which the facility is or will be located, or, for licenses issued under Chapter 336, Subchapter G of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), the mayor and health authorities of each incorporated city whose city limits are within five highway miles of the site of the facility;

(2) the county judge and health authorities of the county in which the facility is or will be located;

(3) any person who submitted a written request in advance to be notified of any licensing action on this type of license;

(4) the applicant;

(5) for applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal) or Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), each owner of property adjacent to the proposed site; or, for licenses under Chapter 336, Subchapter G of this title, owners of property within 1,000 feet of the perimeter of the proposed license area. For the purposes of determining property ownership under this subsection, the applicant shall provide the chief clerk the names of the relevant landowners from the county tax rolls that are available no more than 30 days before the date of newspaper publication of the notice;

(6) for applications under Chapter 336, Subchapter G of this title, the chief executive of each political subdivision and special district levying taxes upon all or any part of the site of the facility and each member of the Texas Legislature in whose district the facility is or will be located; and

(7) any other person the chief clerk or executive director may elect to include.

Adopted May 14, 1997

Effective June 5, 1997

**§39.307. Published Notice.**

(a) For applications under Chapter 336, Subchapter F of this title (relating to Alternative Methods of Disposal of Radioactive Material) or Subchapter G of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), when notice is required to be published under this subchapter, the applicant shall publish notice at least once in a newspaper of general circulation in the county in which the facility is or will be located, or, if no newspaper is published in the county or counties in which the facility is or will be located, in a newspaper of general circulation in each county adjacent to the county in which the facility is located. In addition, in the same edition that the notice is published, the applicant shall publish an advertisement outside the notice section of the newspaper that directs the reader to the notice section for the details of the proposed licensing action.

(b) For applications for a new license, renewal license or major amendment to a license issued under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), when notice is required to be published under this subchapter, the applicant shall publish notice in a newspaper published in the county or counties in which the facility is or will be located. If no newspaper is published in the county or counties in which the facility is or will be located, a written copy of the notice shall be posted at the courthouse door and five other public places in the immediate locality to be affected. The notice shall be posted for at least 31 days.

(c) In addition to published notice requirements in subsection (b) of this section, for an amendment of a license under Chapter 336, Subchapter H of this title, the chief clerk shall publish notice once in the Texas Register.

Adopted May 14, 1997

Effective June 5, 1997

**§39.309. Notice of Contested Case Hearing on Application.**

(a) The requirements of this section apply when an application is referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing under Chapter 80 of this title (relating to Contested Case Hearings).

(b) For applications under Chapter 336, Subchapter F of this title (relating to Licensing of Alternative Methods of Disposal) or Subchapter G of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), notice shall be mailed no later than 30 days before the hearing. For applications under Chapter 336, Subchapter H of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste), notice shall be mailed no later than 31 days before the hearing.

(c) For applications under Chapter 336, Subchapter G of this title, if a hearing has been set at the time the notice of application is provided, the notice of hearing may be combined with the notice of application.

(d) A written environmental analysis, if required, shall be made available to the public no later than 31 days before the date of hearing.

Adopted May 14, 1997

Effective June 5, 1997

**§39.311. Proof and Certification of Notice.**

(a) Notice shall be mailed by certified mail, return receipt requested. Proof of mailing to the proper address on the return receipt shall be accepted as conclusive evidence of the fact of the mailing.

(b) The applicant shall file proof of publication with the chief clerk within 30 days after publication. Acceptance of an affidavit executed by the publisher accompanied by a printed copy of the notice as published creates a rebuttable presumption of compliance with the requirement to publish notice.

(c) The applicant shall file proof of posting with the chief clerk within 30 days of posting. Proof of posting may be made by the return affidavit of the sheriff or constable, or, by the affidavit of a credible person made on a copy of the posted notice showing the fact of the posting.

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